

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-17203 Filed 7-12-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35941; File No. SR-OCC-95-06]

**Self-Regulatory Organizations; the Options Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Monthly Fee for the Use of a New Telecommunications Platform**

July 6, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> ("Act"), notice is hereby given that on May 23, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

OCC proposes to charge a monthly fee to OCC members using the Transmission Control Program/Interconnect Protocol ("TCP/IP"), a new telecommunications platform.

**II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>2</sup>

**(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to establish a monthly fee to

be charged to OCC members using the new TCP/IP telecommunications platform. OCC proposes to provide the TCP/IP platform to facilitate the transmission of data between OCC and its members that implement systems based upon client server technology.<sup>3</sup> OCC proposes to charge a fee of \$495.00 per month for the new telecommunications platform. The fee is based upon OCC's costs of providing the new platform.

OCC believes the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among OCC's participants.

**(B) Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

**(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others**

No written comments have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) (ii) and (iii)<sup>4</sup> of the Act and pursuant to Rule 19b-4(e) (2) and (4)<sup>5</sup> promulgated thereunder because the proposal effects a change in an existing service of OCC that does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and does not significantly affect the respective rights or obligations of OCC or persons using the service and establishes or changes a due, fee or other charge imposed by OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate

<sup>3</sup> The platform will not provide new information to those members using TCP/IP. Rather, it simply will provide OCC with a faster means to disseminate information, such as risk-based hair-cut information, data service and price information, clearing member reports, and series file information, to its members. Telephone conversation between Jean M. Cawley, Special Counsel, OCC, and Cheryl R. Oler, Staff Attorney, Division of Market Regulation, Commission (June 20, 1995).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A) (ii) and (iii) (1988).

<sup>5</sup> 17 CFR 240.19b-4(e) (2) and (4) (1994).

such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-95-06 and should be submitted by August 3, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 95-17205 Filed 7-12-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35933; File No. SR-PHLX-95-48]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Proposing to Extend its OTC/UTP Pilot Program**

July 3, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 27, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items

<sup>6</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1991).

<sup>4</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and simultaneously is approving the proposal.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to extend the effectiveness of the pilot program and its accompanying rules regarding the trading of Nasdaq/National Market ("Nasdaq/NMS") securities on the Exchange pursuant to unlisted trading privileges ("Phlx OTC/UTP Pilot Program") until August 12, 1995, which is when the effectiveness of the joint transaction reporting plan ("Joint OTC/UTP Plan" or "Plan") for OTC/UTP transactions is scheduled to expire.

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. Due to the non-controversial nature of the Phlx OTC/UTP Pilot Program, coupled with its previously scheduled expiration date of June 30, 1995, the Phlx respectfully requests accelerated approval of this filing.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### **A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

In 1985, the Commission published its policy to allow the extension of unlisted trading privileges ("UTP") by national securities exchanges in certain over-the-counter ("OTC") securities, provided that certain terms and conditions are satisfied. On June 26, 1990, the Commission approved the Joint OTC/UTP Plan, submitted by the

National Association of Securities Dealers, Inc. ("NASD"), the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange ("MSE," currently operating as the Chicago Stock Exchange, or "Chx"), and the Phlx.<sup>3</sup> The Joint OTC/UTP Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NMS securities traded on exchanges and by NASD market makers.

The Phlx files the current proposed rule change to continue the effectiveness of the Phlx OTC/UTP Pilot Program that provides for trading of Nasdaq/NMS securities on the Exchange pursuant to UTP. Although the Chx had been trading Nasdaq/NMS securities since 1987, the Phlx obtained temporary approval of its rules to facilitate trading Nasdaq/NMS securities in late 1992,<sup>4</sup> and began trading the securities in February 1993. The Phlx operated the program without any adverse consequences or developments which would have had a negative impact upon the program.

Since April 1994, the Phlx has temporarily suspended making markets in OTC/UTP securities. However, the Phlx desires to keep the program in place for future use once other parts of the Joint OTC/UTP Plan are finalized between the NASD and other participants in the Plan. Therefore, the Phlx seeks an extension of the pilot program to further develop the OTC/UTP program.

##### **2. Statutory Basis**

This proposal is consistent with the Section 6(b)(5) of the Act and the rules and regulations promulgated thereunder. Specifically, the proposal is calculated to promote just and equitable principles of trade and to protect investors and the public interest. Due to the non-controversial nature of the Phlx OTC/UTP Pilot Program, coupled with the previously scheduled expiration of the Phlx's OTC/UTP privileges, the Phlx

requests accelerated approval of this filing.

#### **B. Self-Regulatory Organization's Statement on Burden on Competition**

The Phlx does not believe that the proposed rule change will be a burden on competition.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others**

No written comments were either solicited or received.

### **III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent American Stock amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-PHLX-95-48 and should be submitted by August 3, 1995.

### **IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

The Commission believes that the Phlx's proposal to extend the effectiveness of the Phlx OTC/UTP Pilot Program and accompanying rules with respect to UTP in OTC securities is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission believes that the proposed rule change is consistent with Sections 6(b)(5), 11A and 12(f) of the Act.<sup>6</sup>

<sup>5</sup> For a more detailed discussion of the Commission's findings with respect to the Phlx OTC/UTP Pilot Program and its consistency with the Act, see Securities Exchange Act Release No. 31672, *id.*

<sup>6</sup> 15 U.S.C. 78f(b)(5), 78k-1 (1988), and 78l(f) (1988) (as amended October 22, 1994). Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to remove impediments

<sup>3</sup> See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917. The Commission has approved two extensions of the effectiveness of the Joint OTC/UTP Plan. See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (order approving Amendment No. 1 to File No. S7-24-89), and Securities Exchange Act Release No. 35221 (January 11, 1995), 60 FR 3886 (order approving Amendment No. 2 to File No. S7-24-89, thereby extending the effectiveness of the Joint OTC/UTP Plan through August 12, 1995).

<sup>4</sup> See Securities Exchange Act Release No. 31672 (December 30, 1992), 58 FR 3054 (order approving File No. SR-PHLX-92-04). The effectiveness of the Phlx OTC/UTP Pilot Program has been extended twice, most recently through June 30, 1995. See Securities Exchange Act Release No. 35191 (January 12, 1995), 60 FR 3017.

In 1985, the Commission published its policy to extend UTP to national securities exchanges in certain OTC securities provided certain terms and conditions are satisfied.<sup>7</sup> The Commission's policy stated that UTP approval would be conditioned, in part, on the approval of a plan to consolidate and disseminate exchange and OTC quotation data and transaction data upon which UTP is granted. As noted above, in 1990, the Commission approved the Plan which provides for the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NMS securities listed on an exchange or traded on an exchange pursuant to a grant UTP.<sup>8</sup> Transactions in securities pursuant to the Plan are and will continue to be reported in the consolidated transaction reporting system established under the Plan.

The Commission has emphasized that Phlx specialists trading Nasdaq/NMS securities pursuant to the grant of UTP are subject to Plan requirements as well as the Phlx OTC/UTP Pilot Program and Phlx By-Laws and Rules, in general.<sup>9</sup> Moreover, the Commission has stated its intent to monitor any potential abuse of the informational advantage that options traders could acquire from the Phlx equity floor with respect to securities traded under the Phlx OTC/UTP Pilot Program.<sup>10</sup> These requirements and the Commission's intent to monitor for abuses will continue in effect, particularly if the Phlx removes its temporary suspension of trading pursuant to its OTC/UTP Pilot Program and the Plan.

The Commission believes that it is appropriate to extend the Phlx OTC/UTP Pilot Program through August 12, 1995, while the Commission evaluates the overall program for OTC/UTP and any enhancements or changes to the program that may be necessary to further the purposes of the Act. In the interim, however, the Commission continues to believe that the Phlx OTC/

UTP Pilot Program, as limited by the Joint OTC/UTP Plan, generally furthers the objectives of a national market system and is consistent with the maintenance of fair and orderly markets and the protection of investors as required by Sections 6(b)(5), 11A and 12(f) of the Act.

## V. Conclusion

For the reasons stated above, the Commission believes that it is appropriate to extend the Phlx OTC/UTP Pilot Program through August 12, 1995.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In light of the previously scheduled expiration of the Phlx OTC/UTP Pilot Program on June 30, 1995, the Commission believes that accelerated approval of the proposal is appropriate in order to allow the Phlx to continue to have rules in place for OTC/UTP trading. Further, the Phlx OTC/UTP Pilot Program and the accompanying rules have been noticed previously in the **Federal Register** for the full statutory period, and the Commission received no comments on the proposal.<sup>11</sup>

*It is Therefore ordered*, pursuant to Section 19(b)(2) <sup>12</sup> that the proposed rule change is hereby approved on a pilot basis through August 12, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 95-17138 Filed 7-12-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35943; File No. SR-Phlx-95-05]

## Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Response Period for Customized Foreign Currency Options

July 7, 1995.

On February 21, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> filed with the Securities and Exchange Commission ("Commission") a proposed rule change

to eliminate the response period and the special parity rules that apply following a request for quote ("RFQ") for a customized foreign currency option ("FCO"). Notice of the proposal appeared in the **Federal Register** on April 24, 1995.<sup>3</sup> No comment letters were received on the proposed rule change. This order approves the Phlx proposal.

The purpose of the proposed rule change is to amend Exchange Rule 1069(b) in order to eliminate both the response period permitted following an RFQ for a customized FCO and the special parity rules for assigned Registered Options Traders ("ROTs") that apply during that response period.<sup>4</sup> Currently, when a participant submits an RFQ, any other participant may request a preset response time.<sup>5</sup> Once the response period has been invoked, a trade may occur prior to the end of the response period only if at least two assigned ROTs respond to the RFQ.

The special parity provisions in Rule 1069 provide that any assigned ROT who enters a responsive quote that is improved upon during the response time by another participant is entitled to participate on a parity basis with that other participant by announcing immediately thereafter, and prior to the execution of the order, that he or she is matching the best bid or offer. This ability to match is available to assigned ROTs until the execution of the trade or the end of the response time period, whichever occurs first.

The Phlx now proposes to amend Rule 1069 to eliminate the response time period and the special parity provisions. As a result, the Exchange represents that customized FCOs would trade more like other FCOs listed on the Exchange in that trades would be executable as soon as any responsive quote <sup>6</sup> is made and the Exchange's existing parity and priority provisions in Phlx Rule 1014(h) would apply.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

<sup>3</sup> See Securities Exchange Act Release no. 35615 (April 17, 1995), 60 FR 20133.

<sup>4</sup> The proposal also adopts Floor Procedure Advice F-20 (Quoting and Trading Customized Foreign Currency Options) which will parallel the provisions in Exchange Rule 1069(b), as amended.

<sup>5</sup> The response period was initially set by the Exchange's FCO Committee at two minutes for simple strike options, five minutes for simple spreads, inverses, and cross-rates, and eight minutes for options strategies involving more than three legs. The FCO Committee shortened the response period to one minute for all types of RFQs for customized FCOs on January 16, 1995, effective at the opening on January 17, 1995.

<sup>6</sup> See *infra* note 8.

to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 11A provides, among other things, that it is in the public interest and appropriate for the protection of investors to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets. Section 12(f), as recently amended by the UTP Act of 1994, provides, among other things, that exchange may extend UTP to securities that are registered, but not listed on any exchange, provided that certain conditions are met.

<sup>7</sup> See Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640.

<sup>8</sup> See note 3, *supra*.

<sup>9</sup> See note 4, *supra*.

<sup>10</sup> *Id.*

<sup>11</sup> See *supra* note 4.

<sup>12</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>13</sup> 17 CFR 200.30-3(a)(12) (1991).

<sup>1</sup> 15 U.S.C. 73s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).